

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
v.) No. 2:09-CR-045
)
SUNNAH MADDOX)

O R D E R

This criminal case is before the court on the June 21, 2010 report and recommendation [doc. 315] of Chief Magistrate Judge Dennis H. Inman. Magistrate Judge Inman recommends that the defendant’s “Motion to Suppress the Fruits of Searches Undertaken Pursuant to Unlawfully Issued Warrant” [doc. 254] be denied. Neither the defendant nor the government has filed any objections to the report and recommendation, and no transcript of the hearing on the motion has been filed.

A *de novo* review by the district court of a magistrate judge’s report and recommendation is both statutorily and constitutionally required. *See United States v. Shami*, 754 F.2d 670, 672 (6th Cir. 1985). However, it is necessary only to review “those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b); *see also United States v. Campbell*, 261 F.3d 628, 631-32 (6th Cir. 2001).

Despite the absence of objections by either party, the court has reviewed *de novo* the report and recommendation, the defendant’s motion, and the parties’ briefing. The

court **ADOPTS** the findings of fact and conclusions of law set out in the report and recommendation. The court agrees with Judge Inman that Rule 41(b)(1) of the Federal Rules of Criminal Procedure authorized state Circuit Court Judge Thomas J. Wright to sign the search warrants at issue while the federal magistrate judges were out of state attending the Sixth Circuit Judicial Conference. *Accord United States v. Muncey*, 185 F. Supp. 107 (E.D. Tenn. 1960). The court further agrees that, absent a showing of prejudice, the agents' omission of the time of execution on the warrants does not invalidate the searches. *See United States v. McKenzie*, 446 F.2d 949, 954 (6th Cir. 1971). Therefore, it is hereby **ORDERED** that the defendant's motion to suppress [doc. 254] is **DENIED**.

IT IS SO ORDERED.

ENTER:

s/ Leon Jordan
United States District Judge